



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2015-0671]

RIN 1625-AA08

Special Local Regulation, Tennessee River, Mile 255.0 to 256.5;

Florence, AL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a special local regulation for all waters of the Tennessee River, beginning at mile marker 255.0 and ending at mile marker 256.5 on October 3, 2015 from 8:00 a.m. until 5:00 p.m. This proposed special regulation is necessary to provide safety for the participants in the "Shoals Dragon Boat Festival," an event which will involve non-high speed boat races. Entry into this area will be prohibited unless specifically authorized by the Captain of the Port Ohio Valley or designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before September 22, 2015.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Vera Max, MSD Nashville, Nashville, TN, at 615-736-5421 or at vera.m.max@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to

<http://www.regulations.gov>, type the docket number (USCG-2015-0671) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2015-0671) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Basis and Purpose

The Kilby Laboratory School PTO is holding the "Shoals Dragon Boat Festival" on October 3, 2015. This event is planned to take place at McFarland Park on the waters of the Tennessee River mile marker 255.0 through mile marker 256.5, at Florence, AL. The Captain of the Port Ohio Valley has determined that additional safety measures are necessary to protect participants, spectators, and waterway users during this event. Therefore, the Coast Guard proposes to establish a special local regulation on specified waters of the Tennessee River. This proposed regulation would be in effect on October 3, 2015 from

8:00 a.m. until 5:00 p.m.

The legal basis and authorities for this proposed rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations for regattas under 33 CFR part 100.

C. Discussion of Proposed Rule

The Captain of the Port Ohio Valley is proposing to establish a special local regulated area for all waters of the Tennessee River beginning at mile marker 255.0 and ending at mile marker 256.5. Vessels or persons would not be able to enter into, depart from, or move within this area without permission from the Captain of the Port Ohio Valley or designated representative. Persons or vessels requiring entry into or passage through the proposed special local regulated area will be required to request permission from the Captain of the Port Ohio Valley, or designated representative. They could be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465. This proposed rule would be effective from 8:00 a.m. until 5:00 p.m. on October 3, 2015. The Captain of the Port Ohio Valley would inform the public through broadcast notices to mariners of the enforcement period for the special local regulated area as well if any changes in the planned schedule.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This proposed special local regulation restricts transit on the Tennessee River from mile marker 255.0 to mile marker 256.5, for a short duration of nine hours; Broadcast Notices to Mariners and Local Notices to Mariners will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we

have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit mile marker 255.0 to mile marker 256.5 on the Tennessee River, from 8:00 a.m. to 5:00 p.m. on October 3, 2015. This proposed special local regulated area will not have a significant economic impact on a substantial number of small entities as it will be enforced for a short period of time. Additionally, although the proposed special local regulated area will apply to the entire width of the river, traffic will be allowed to pass through the area with the permission of the Captain of the Port Ohio Valley or designated representative. Broadcast Notices to Mariners will also inform the community of this special local regulation so that they may plan accordingly for temporary restrictions on transit.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditures, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private

property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the Captain of the Port Ohio Valley establishing a special local regulation for all waters of the Tennessee River beginning at mile marker 255.0 and ending at mile marker 256.5 to provide safety for the

participants of the "Shoals Dragon Boat Festival." This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the U. S. Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERWAYS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C 1233

2. A new special local regulation 100.801T01-0671 is added to read as follows:

§ 100.801T01-0671 Special Local Regulation; Tennessee River Mile 255.0 to River Mile 256.5, Florence, AL

(a) Location. All waters of the Tennessee River beginning at mile marker 255.0 and ending at mile marker 256.5 at Florence, AL.

(b) Periods of enforcement. This proposed rule will be enforced from 8:00 a.m. to 5:00 p.m. on October 3, 2015. The Captain of the Port Ohio Valley or a designated representative will inform the public through broadcast notice to mariners of the enforcement period for the special local regulation.

(c) Regulations. (1) In accordance with the general regulations in § 100.801 of this part, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U. S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: August 13, 2015.

R. V. Timme
Captain, U.S. Coast Guard
Captain of the Port Ohio Valley

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9/15/2015]